

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:20-cv-00105-MR-WCM**

JOHN DOE,)
)
)
Plaintiff,)
)
)
vs.) **O R D E R**
)
LEES-McRAE COLLEGE, a North)
Carolina Corporation, LEE KING,)
individually and in his official)
capacity, JON DRIGGERS,)
individually and in his official)
capacity, and JOSHUA GAISSER,)
individually and in his official)
capacity,
)
)
Defendants.)
)

THIS MATTER is before the Court on the Defendants' Motion to Dismiss Plaintiff's Amended Complaint, or, in the Alternative, to Strike [Doc. 17]; the Magistrate Judge's Memorandum and Recommendation [Doc. 25] regarding the disposition of said motion; and the parties' respective Objections to the Magistrate Judge's Memorandum and Recommendation [Docs. 26, 27].

Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate

Judge, was designated to consider the Defendants' Motion to Dismiss or to Strike and to submit a recommendation for its disposition. On February 4, 2021, the Magistrate Judge issued a Memorandum and Recommendation, recommending that the Defendants' Motion to Dismiss be granted in part and denied in part and the alternative Motion to Strike be denied. [Doc. 25]. On February 18, 2021, the parties filed their respective Objections to the Magistrate Judge's Memorandum and Recommendation [Docs. 26, 27]. The parties timely filed their respective Responses to those Objections. [Docs. 28, 29].

After a careful review of the Memorandum and Recommendation, the Court concludes that the Magistrate Judge's proposed conclusions of law are correct and are consistent with current case law. Accordingly, the Court overrules the parties' objections and accepts the Magistrate Judge's recommendation that the Defendants' Motion to Dismiss should be granted in part and denied in part and that the Defendants' alternative Motion to Strike be denied.

Accordingly, **IT IS, THEREFORE, ORDERED** that the parties' Objections to the Magistrate Judge's Memorandum and Recommendation [Docs. 26, 27] are **OVERRULED**, and the recommendation of the Magistrate Judge [Doc. 25] is **ACCEPTED**.

IT IS FURTHER ORDERED that the Defendant's Motion to Dismiss [Doc. 17] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the Motion is **GRANTED** with respect to the Plaintiff's claims for negligence, intentional and negligent infliction of emotional distress, fraud in the inducement/breach of contract, and the claims of Defendants King, Driggers, and Gaisser, and these claims are hereby **DISMISSED WITH PREJUDICE**. The Motion is **DENIED** with respect to the Plaintiff's claim against Defendant Lees-McRae College under the ADA and Rehabilitation Act.

IT IS FURTHER ORDERED that the Defendants' Motion to Strike [Doc. 17] is **DENIED**.

IT IS SO ORDERED.

Signed: March 22, 2021



Martin Reidinger
Chief United States District Judge

